

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

LESLIE MICHELE FRITZ

PLAINTIFF

VS.

CIVIL ACTION NO. 2:09cv32-KS-MTP

COMMISSIONER OF SOCIAL SECURITY,
Michael J. Astrue

DEFENDANT

MEMORANDUM OPINION

This cause comes before this court *sua sponte* for consideration of dismissal. On October 15, 2009 an [9] order was entered by this court denying plaintiff's [2] [4] motions to proceed *in forma pauperis* under 28 U.S.C. § 1915(g) and requiring plaintiff to pay the filing fee within thirty days. It was further ordered that should plaintiff fail to pay the filing fee within thirty days that the above matter would be dismissed without further notice to the plaintiff.

The plaintiff has failed to comply with the court's order on October 15, 2009, and has failed to pay the filing fee as ordered. Additionally, plaintiff has not filed any pleadings in well over a year and has not otherwise taken steps to pursue this matter. Accordingly, the court finds that this matter should be dismissed without prejudice.

This court has the authority to dismiss an action for the plaintiff's failure to prosecute pursuant to Rule 41(b) of the FEDERAL RULES OF CIVIL PROCEDURE and under its inherent authority to dismiss the action *sua sponte*. See *Link v. Wabash Railroad*, 370 U.S. 626 (1962); *McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988). The court must be able to clear its calendars of cases that remain dormant because of the inaction or dilatoriness of the parties seeking relief, so as to achieve the orderly and expeditious disposition of cases. Such a sanction is "necessary in order to prevent undue delays in the disposition of pending cases and to avoid

congestion in the calendars” of the court. *Link*, 370 U.S. at 629-30.

Since the defendant has never been called upon to respond to the plaintiff’s pleading, and has never appeared in this action, and since the court has never considered the merits of plaintiff’s claims, the court’s order of dismissal will provide that dismissal is without prejudice.

A final judgment in accordance with this memorandum opinion will be entered.

This the 21st day of January, 2011.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE